QIYAAS (Shar`i Analogy)
By Moulana M. A. Okarvi (A.R)

1. In the Qur`aan Shareef Allaah Ta`ala has mentioned three categories of people:
a. AOolul Albaab@ (The Intelligent ones)
b. AOolul Absaar@ (Those with foresight)
c. AAhle Zikr@ (Those who have knowledge, and those who remember Allaah Ta`ala)
The Fuqaha are those who discover the intricacies and complexities of Deen. Allaah Ta`ala has ordered them: ***AAnd reflect, O you who have eyes (foresight).@***
Allaamah Jalaalud Deen Suyooti (rahmatullahi alaih) states in his Tafseer that the word AI`tibaar@ - *take lesson* - (which appears in the above Aayat) means AQiyaas@.
Haafiz Ibn Hajar Asqalaani (rahmatullahi alaih) and Haafiz Aini (rahmatullahi alaih) state in their commentaries of Bukhari Shareef: *AAnd Qiyaas (analogy) is I`tibaar (to reflect / contemplate), and I`tibaar is commanded (by Allaah Ta`ala), hence Qiyaas is also commanded, and the proof for this is in the Aayat* ***AAnd reflect, O you who have foresight.@*** [Hashia (footnote of) Bukhari, page 1086]

2. Allaah Ta`ala has ordered Muslims to obey the AOolul Amr@ (those in authority), and it is said regarding the AOolul Amr@ that they are the ones who make AIstinbaat@. AIstinbaat@ means that just as a person is required to dig deep into the earth in order to extract the water which lies deep down in the earth, which was placed there by Allaah Ta`ala, in a similar way the AMujtahid@ has to >dig= deep into the Qur`aan Shareef and the Sunnat in order to extract the inner meanings , intricacies and complexities. He has to bring these to the fore. Therefore, Qiyaas is a AMuzhir@ (it brings things to light and into perspective), it is not a AMuthbit@ (something new which is unshakable). Therefore, Ijtihaad is that duty executed by the Mujtahid, when he makes Istinbaat of the laws contained in the Qur`aan Shareef and the Sunnat. ***Hence, for a Ghair Mujtahid (one who is not a Mujtahid), to refer to and follow a Mujtahid is what is called <u>TAQLEED.</u>***

3. Allaah Ta`ala states in Surah Tawbah (Aayat 122): ***AAnd it is not (proper) for the Believers to go out and fight (Jihaad) all together. Of every troop of them, a party only should go forth, that they (who are left behind) may get instructions in (Islaamic) religion (learn Fiqh), and that they may warn their people when they return to them, so that they may beware (of evil).@***
Allaamah Sarakhsi writes in the foreword of >Mabsoot=: *ASurely Allaah Ta`ala has made (preferred) the Fuqaha as the warners.@*
Nabi (sallallahu alaihi wasallam) said: *AAllaah Ta`ala had made from amongst His slaves those who have heard my speech and preserved it, then they convey it to those who were not present (to listen to me). Hence, most of the carriers of Fiqh (Islaamic knowledge) do not have the ability to understand / comprehend (the intricacies of) Fiqh, and many of the carriers of Fiqh convey it to those who have a better understanding.@* [Daarmi, page 75, vol.1 / Ibn Maajah, page 21 / Mustadrak Haakim, page 86, vol.1]. Imaam Haakim says that this Hadith is >Mash`hoor= (famous and well accepted). Allaamah Suyooti say that this Hadith is >Mutawaatir= (narrated from numerous sources) [Miftaahul Jannat, page 5]. Nawaab Siddeeq Hassan Saheb says that this Hadith is

reported from 16 Sahabah (radhiAllaahu anhum) [Al-Hirzul Maknool, page 9].
From this Hadith we also learn that the actual aim and object of Hadith is Fiqh. Fiqh is not merely (knowing) the words and meanings of Ahadith. In fact, its meaning is >to unearth= / open up and discover (the inner import thereof). Fiqhi Masaa`il are to be extracted from the Ahadith. Thousands of Masaa`il from the Fuqaha Sahabah are recorded in >Musannif Abdur Razzaaq= and >Musannif Ibn Abi Shaibah=. To follow these Masaa`il is known as **'TAQLEED=.**

4. It is reported from Hadhrat Amar bin Aas and Abu Huraira (radhiAllaahu anhuma) that they heard Nabi (sallallahu alaihi wasallam) saying: ***AIf a Haakim (Learned person) makes a ruling, by making Ijtihaad, and he is correct in his result, he will receive double reward, but if he makes Ijtihaad and his result is incorrect, he will receive one reward.@*** [Bukhari, page 1092, vol.2 / Muslim, page 76, vol.2 / Nisai, page 262, vol.2 / Tirmidhi, page 210 / Abu Dawood, page 70]
The Ulama have stated: *AThe Muslims have reached a consensus that this Hadith refers to a knowledgeable Haakim (Muslim ruler), who is a capable person. If the result of his Ijtihaad is correct, then he will receive double reward, one for his Ijtihaad and another for being correct. If his result is incorrect, then he will only receive a reward for his Ijtihaad. However, they (Ulama) say that regarding the person who is unlearned (in Islaamic Jurisprudence), it is* ***Haraam*** *for him to give a ruling on a matter. If he does give a ruling, he will receive* ***no*** *reward, in fact he will be a* ***sinner****. His ruling will not be executed regardless of whether it conforms to the truth or not, because his being correct is coincidental and not aligned (to the principles of Islaamic knowledge). He will be a sinner with regard to all his rulings, regardless of whether they are correct or incorrect. All of them (his rulings) are rejected. It appears in a Hadith regarding the three types of judges, one who will be in Jannat and two in Jahannam. That judge who recognises the truth and rules in favour of it, will be in Jannat. That judge who recognises the truth and rules in contrary to it, will be in Jahannam. That judge who rules in ignorance (without making attempt to verify the truth) will be in Jahannam.@* [Nawawi, page 76, vol.2]

5. It is reported from Hadhrat Abu Huraira (radhiAllaahu anhu) that a person once came to Nabi (sallallahu alaihi wasallam) and complained that his wife had given birth to a child that was dark in complexion. Nabi (sallallahu alaihi wasallam) asked him whether he had camels that were from the same stock but of different colour, he replied in the affirmative. Nabi (sallallahu alaihi wasallam) drew a parallel between the two and concluded that just as camels born of the same parents can differ in colour, so too can human beings. [Bukhari, page 1088, vol.2]

6. Rasulullah (sallallahu alaihi wasallam) said: ***ASurely I give rulings (Mas`alas) over you, with my reasoning (analogy), in all such matters where Wahi (revelation) has not been revealed to me.@*** [Abu Dawood, page 71, vol.2]

7. Hadhrat Abu Bakr (radhiAllaahu anhu) used to say: *AIndeed, if a matter is presented to Abu Bakr which is not found in the Kitaab of Allaah Ta`ala, neither in the Sunnat, then I make Ijtihaad.@* Then he said: *AThat is* ***my*** *ruling (opinion), if it turns out to be correct, then it is from Allaah Ta`ala, and if it is incorrect, then it comes from me, and I seek Allaah Ta`ala=s forgiveness from it.@* [Jaami`u Bayaanul Ilm, page 51, vol.2]

8. If Hadhrat Abu Bakr (radhiAllaahu anhu) could not find a clear cut ruling on a matter in the Qur`aan Shareef or the Sunnat, then he would consult with the senior and prominent Sahabah (radhiAllaahu anhum), and he would rule on the consensus reached. [Daarmi, page 58]

9. Hadhrat Umar (radhiAllaahu anhu) advised Qadhi Shurai`h, that if any matter presents itself, then firstly he should refer to the Qur`aan Shareef for a solution. If no solution is found there then he must refer to the Sunnat of Nabi (sallallahu alaihi wasallam). If no solution is found there, then he must draw a solution from the consensus of opinion (if there is such a ruling upon which there was consensus). If there was no prior consensus on that matter, then he should make Ijtihaad. [Jaami`u Bayaanul Ilm, page 52/57/59, vol.2]

10. Whenever Hadhrat Umar (radhiAllaahu anhu) would give a ruling, he would say: *AThis is the view of Umar, if it is correct then it is from Allaah Ta`ala, and if it is incorrect, then it comes from Umar.@* [Mizaanu Shiraani, page 49, vol.1]

11. When Hadhrat Abdullah ibn Abbaas (radhiAllaahu anhu) was the Mufti of Macca Mukarrama, then his pattern was such, whenever he gave a ruling, that he firstly referred to the Qur`aan Shareef, then to the Sunnat, then to the rulings of Hadhrat Abu Bakr and Umar (radhiAllaahu anhuma). If he found no proof in any of the above then he would give his own view (ruling) on the matter. [Daarmi, page 59,vol.1 / Sunan Baihaqi, page 115, vol.1 / Jaami`u Bayaanul Ilm, page 57-8, vol.2]

12. Hadhrat Abdullah Ibn Mas`ood (radhiAllaahu anhu) was the Mufti of Daarul Uloom Kufa. His proclamation was:
AIf any of you is faced with a matter (to rule over) after today, then he should rule in conjunction with the Qur`aan Shareef. If no such solution is found in the Qur`aan Shareef, then he should see what Nabi (sallallahu alaihi wasallam) ruled in a similar matter. If he comes across a matter which is neither in the Qur`aan Shareef nor the Sunnat, then he should rule as the pious predecessors have ruled. If he comes a across a matter which is neither in the Qur`aan Shareef, nor in the Sunnat, nor have the pious predecessors ruled in a similar case, then he should make Ijtihaad and rule accordingly.@ [Nisai, page 264 - Baabul Hukm Bi Ittifaaqi Ahle Ilm (*Chapter on giving a verdict in conjunction with the Learned Scholars).*]

13. Hadhrats Ubai bin Ka`ab, Abu Darda, and Abu Huraira (radhiAllaahu anhum) also used to give Fataawa (rulings) from their own Ijtihaad (when the previous avenues were exhausted) [Jaami`u Bayaanul Ilm, page 58, vol.2]

14. It is stated in the footnote of the Kitaab AFawaa`id Salafia@, which is a Kitaab of the Ghair Muqalliddeen, under the Aayat of the Qur`aan Shareef: ***A(All of you) Must follow that which has been revealed to you from your Rabb@*** C *AIf any matter is not proven from the Qur`aan Shareef or Ahadith, then one may refer to consensus of opinion and Ijtihaad, because these two are corollaries (branches) to the Qur`aan Shareef and Sunnat.@* [Translation of >Wahidud Zamaan=, page 181, vol.11]

All four proofs are mentioned in the Qur`aan Shareef. After the order of obeying and following Allaah Ta`ala and His Rasool (sallallahu alaihi wasallam), there is the order of following the >Ulool Amr= (knowledgeable ones), who are the people of >Istinbaat= - i.e. the Mujtahiddeen. (Refer above for definitions). Similarly, there is reference made to obeying the rulings of the Fuqaha, and there is also mention made of Ijma (consensus) being regarded as a valid proof in the Shariah: ***AAnd whoever contradicts and opposes the Messenger (Muhammed (sallallahu alaihi wasallam) after the right path has been shown clearly to him, and follows other than the believers= way. We shall keep him in the path he has chosen, and burn him in Jahannam - what an evil destination.@*** [Surah Nisaa, Aayat 115]

In Sahih Bukhari, Imaam Bukhari (rahmatullahi alaih) has taken proofs from the Qur`aan Shareef, and from the Ahadith also. He also uses Ijma as Shar`i proof. He has quoted Ahadith under the following headings: *AHold on fast to the Jamaat of Muslims and their Imaam@* [Page 509, vol.1], *AOne who separates oneself from the Jamaat (of Muslims) even a hand-span, will die a death of ignorance@* [page 1045, vol.2]. There is an order to even execute those who separate themselves from the Jamaat of Muslims and their Imaam. *A..they will leave Islam in the way an arrow leaves its bow... wherever you see them you should kill them. Their killing will be rewardable on the day of Qiyaamah.@* [page 756, vol.2]. *AA group will emerge from amongst you, who will belittle your Salaat over theirs, and your fasts over theirs, and your actions over theirs, they will recite the Qur`aan Shareef, which will not pass their throats (have no effect upon them), they will leave the Deen like an arrow leaves its bow@* [page 756, vol.2]. These people will emerge before Qiyaamah. Only those who are deficient in age and knowledge will join them. Their Jamaat will be devoid of Fuqaha. They will recite the Qur`aan Shareef and Ahadith, but it will have no effect upon their hearts and lives. They will leave Islaam as fast as an arrow leaves its bow. It is for this reason that Imaam Bukhari (rahmatullahi alaih) has included Ijtihaad and Qiyaas as valid Shar`i proofs, in fact even if a Mujtahid makes an error in his judgement, he will rewarded [page 1092, vol.2]. Nabi (sallallahu alaihi wasallam) has also made Qiyaas when he (sallallahu alaihi wasallam) compared the offspring of camels to that of humans [page 1088, vol.2]. Then there was the Qiyaas of Hadhrat Suleiman (alaihi salaam) [page 477, vol.1]. There was the Ijtihaad of the Sahabah (radhiAllaahu anhum) regarding the matter of Banu Quraidha, and Nabi (sallallahu alaihi wasallam)=s acknowledgement of both views [page 291, vol.2].
There is consensus that the principles of Fiqh are based upon four sources **(Adilla-e-Arba`a)**, Qur`aan Shareef, Sunnat, Ijma-e-Ummat, and Qiyaas-e-Shar`i. The acceptance of Fiqh is the acknowledgment of these four sources. Therefore, the acceptance of the four sources is the acceptance of Imaam Bukhari (rahmatullahi alaih), not those who deny Ijma and Qiyaas. There is not a single Hadith in Bukhari which renders the acceptor of Ijma or Fiqh as a Kaafir, Mushrik or Bid`ati. Imaam Bukhari (rahmatullahi alaih) himself refers to Fiqh as being the fruits of Ahadith. Imaam Bukhari has in many instances proven his view with the sayings of the Sahabah (radhiAllaahu anhum) and the Taabi`een (rahmatullahi alaihim). Imaam Bukhari (rahmatullahi alaih) stated the Hadith wherein there is a prophecy of a Persian person [page 985, vol.2], who was to compile and structure the Deen during the >Khairul Quroon= (best of ages). This prophecy has been echoing on the lips of many that it refers to none other than Imaam Abu Hanifah (rahmatullahi alaih).

In effect, Imaam Bukhari (rahmatullahi alaih) has made apparent the truthfulness of the Ahle Sunnat Wal Jamaat, who are the acceptors of the four sources of Fiqh, in particular, Imaam Abu

Hanifah (rahmatullahi alaih), who was the Persian Mujtahid from the >Khairul Quroon=.

In Sahih Muslim, Imaam Muslim (rahmatullahi alaih) has also mentioned the same regarding the four sources of Fiqh. *AHold on fast to the Jamaat of Muslims and their Imaam@* [Page 127, vol.2], *AOne who separates oneself from the Jamaat (of Muslims) even a hand-span, will die a death of ignorance@* [page 128, vol.2]. There are also many other examples such as these which denote Imaam Muslim(rahmatullahi alaih)=s acknowledgment, approval and sanction of the >Adilla-e-Arba`a=.
Regarding Ijtihaad, he mentions regarding the double reward for a Mujtahid, when he correctly rules on a issue and one reward if he errs [page 76, vol.2]. The Qiyaas of Hadhrat Suleiman (alaihi salaam) regarding the two women [page 77, vol.2]. Nabi (sallallahu alaihi wasallam)=s Qiyaas regarding the debt of Hajj [page 362, vol.1] etc. etc.
There is also mention made of the Persian Mujtahid [page 312, vol.2]. The truthfulness of the Ahle Sunnat Wal Jamaat is apparent (in Muslim Shareef), specifically the virtue of the Ahnaaf. In opposition to this mention is also made of the deviated and deviating people: *ASurely Allaah Ta`ala will take away knowledge from the people. HE will take away the learned people, and knowledge will be taken away with them. Only ignorant people will remain. They will pass Fataawa (rulings) without any knowledge. They will be astray and they will lead others astray as well@* [page 340, vol.2].
The following Hadith is also mentioned: *AThere will be such people from the last of my Ummat, who will relate to you that which you have not heard nor have your fathers heard@* [page 9, vol.1].

In Jaami`u Tirmidhi, Imaam Tirmidhi (rahmatullahi alaih) also relates Ahadith pertaining to Ijma. In the chapter ABaabul Fitin@, he mentions about holding on fast to the Jamaat. He also reports from Hadhrat Umar (radhiAllaahu anhu) the words of Nabi (sallallahu alaihi wasallam): *AIt is necessary for you (O Muslims) to hold on fast to the Jamaat. Save yourselves from separating (from the Jamaat). Surely shaitaan is with the single person, and he remains far from two. Whosoever desires Jannat, must remain with the Jamaat.@*
ASurely Allaah Ta`ala will never unite my Ummat (or he (sallallahu alaihi wasallam) said >the Ummat of Muhammed=), upon falsehood, and the hand of Allaah Ta`ala is upon the Jamaat. Whoever deviates (from the Jamaat) a deviation will be in the fire (of Jahannam).@ [page 315]
Regarding Ijtihaad, the following narration appears in Tirmidhi: *AIf the Haakim (Muslim ruler) makes a ruling, he must make Ijtihaad, if he is correct, then he will receive double reward, and if he errs, he will receive one reward.@* [page 210]. It is ascertained that in those Masaa`il wherein there is Ijtihaad, the Mujtahid will make the Ijtihaad and the others will follow and practice upon his ruling. This is known as **TAQLEED.** If a non-Mujtahid does not follow the ruling of a Mujtahid, and rather he follows his own understanding, then the doors of Hidaayat (guidance) are closed for him [page 435].
In the chapter ABaabul Ilm@ he mentions the Hadith *AThat person for whom Allaah Ta`ala wishes good, HE bestows him with Fiqh (understanding) of Deen.@* [page 379].
By mentioning the Hadith *AMany carriers of Fiqh, are not Faqhis@* , he proves that the understanding of the Muhaddith is not a valid proof in the Shariah, but the understanding of the Faqhi ***does constitute*** a valid proof in the Shariah [page 380].
In essence, Imaam Tirmidhi also extols the virtues and validity of the >Adilla Arba`a=.

In Abu Dawood, Imaam Abu Dawood (rahmatullahi alaih) has proven the validity of Ijma by

mentioning the Hadith of the 73 sects which are to arise in this Ummat before Qiyaamah. He also states A*The saviour of the congregation (of Muslims) is **the Jamaat**.*@ [page 164, vol.2]. A*He who separates from the Jamaat.*@ [page 179, vol.2].
Regarding Ijtihaad, he states the Hadith A*If the Haakim makes a ruling....*@ [page 70, vol.2].
In Abu Dawood as well there are numerous examples wherein he proves the >Adilla Arba`a=.

In Nisai, Imaam Nisai (rahmatullahi alaih), mentions the Hadith A*He who separates from the Jamaat..*@ in substantiation of Ijma [page 145-6].
He also mentions the Hadith of A*If the Haakim makes a ruling..*@ and many others.

In this present age of ours, a new group has sprung up, who claim to follow the Hadith. In reality they are far from following the Hadith. They regard as trivial many Ahadith. They find any flimsy excuse to reject most Ahadith. They also regard as insignificant the speech and actions of the Sahabah (radhiAllaahu anhum). They regard themselves as >Muhaqqiqeen= (learned researchers and scholars of Deen). These are the ones who are destroying the Shariat-e-Muhammediyyah (S.A.W). They are annihilating the signs of the Sunnat. They devise all sorts of plans and present excuses to reject many Ahadith, which they dub as being Aweak@.

May Allaah Ta`ala save us from deviating from the Ahle Sunnat Wal Jamaat, and aligning ourselves with such errant sects. AMEEN

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